

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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 Executive Director

February 24, 1989

Attention:

Re: Correction of Base-Year Value
 of Nonappealed Portion

Dear Mr. _____ :

Your letter of January 10, 1989 presents an unusual question involving Revenue and Taxation Code section 51.5(b) and the assessment appeal process. The property in question is a remodeled shopping center, a portion of which was newly constructed as of September 15, 1985. A new base-year value was established on this portion as a supplemental assessment and for the regular 1986 roll.

On March 26, 1986, a 50% interest in the entire center was sold. A new base-year value for the regular 1987 roll was established on this portion, and the appropriate supplemental assessment was made. On August 20, 1987, the taxpayer appealed the supplemental assessment, and the assessor assumed that the application effects the regular 1987 because it was filed during the appropriate time frame. However, section 7 of the application clearly indicates that only item b, the supplemental, is checked whereas item a, the regular, is blank.

Subsequently, the assessor has determined, due to an error of judgment, that the base-year value established in 1986 upon the completion of new construction is low and should be increased. The assessor contends that the change of ownership value (for the 1986 sale) is correct and will be defended at the upcoming appeal.

Question: Since the owner has made application for Changed Assessment that would affect the 1987-1988 regular assessment, can the assessor recommend to

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the Assessment Appeals Board that no change be made to the supplemental assessment resulting from the sale but recommend an increase for the 1987 regular assessment resulting from the judgment on value of the new construction.

Response:

No, the rule is taxpayer's choice on appeal, and the application clearly indicates that the regular assessment is not being appealed. The fact that the supplemental, and its Revenue and Taxation Code section 1605 application, happened to be filed during the regular period is a matter of coincidence and not taxpayer's intent. Rule 324(b) may seem to indicate that the Board should consider the entire property, but it really doesn't apply to this situation. The purpose of that rule was to prevent partial appeals based on arbitrary allocations between the various types of property that may be located on a single parcel.

In this case, Revenue and Taxation Code section 51.5(b) permits a judgment correction within four years after July 1 of the assessment year for which the base-year value was first established. Although the law is not entirely clear on this point, it may be contended that since the supplemental established a new base-year value on September 15, 1985, the starting date is four years from July 1, 1985. It would be our recommendation that you follow a conservative course of action, and make the correction in the regular assessment for this year (1989).

Very truly yours,

JMW:wak
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